UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	No. 12 CR 94
	)	
vs.	)	Honorable Charles Norgle
	)	
MICHAEL R. VILLAGRAN	)	

Government's Sentencing Memorandum

The UNITED STATES of AMERICA, through its attorney, ZACHARY T. FARDON, respectfully submits the following position paper as to sentencing factors, and asks this Court to impose a sentence within the guidelines range of 100 to 125 months' imprisonment.

Background

On February 8, 2012, the defendant robbed $800 from the TCF Bank located within a Jewel Osco grocery store, at 1270 North Lake Street in Aurora. The defendant entered the Jewel-Osco with his hat pulled low, wearing gloves. He walked up to a vestibule near the area of the bank, took a deposit slip, and wrote out a demand note. The defendant then waited in the teller line before handing the note, to a teller B it read "GIVE ME $800 IF You WANT To Live I Got A GUN."

As the teller testified at trial, she was scared and quickly gave the defendant the money. The defendant fled from the TCF Bank, ran through the Jewel Osco store, across the strip mall and into a Cermak Market store. The defendant then changed clothes, discarding the clothes used in the robbery in an aisle in the Cermak Market store. He was arrested by Aurora Police Officers as he made his escape from the Cermak Market.

Government's Position on Sentencing

As a matter of process, the district court must properly calculate the guidelines range, treat the guidelines as advisory, consider the Section 3553(a) factors, and adequately explain the chosen sentence, including an explanation for any variance from the guidelines range. *Gall v. United States*, 128 S. Ct. 586, 596 97 (2007).

The government (and the defense) agrees with the guidelines range calculated by the probation officer. The defendant's 15 criminal history points put him within the highest criminal history category (VI), which yields a sentencing guidelines range of 100 to 125 months.

After properly calculating the guidelines range, the district court should consider the 3553(a) factors, including the following:

A. Nature and Circumstances of the Offenses

Bank robbery is a very serious offense that threatens both the public safety and the stability of financial institutions. The defendant not only obtained money from the bank teller by a threat of force, he said he had a gun and threatened the life of the teller to instill fear. When the teller was told that if she disobeyed the defendant's demands, she would die, she had no reason to doubt the seriousness of the defendant's ultimatum. The defendant's sentence should take into account the fear he instilled in his victim, all for a mere $800.

B. History and Characteristics of the Defendant

The defendant's present conviction represents a culmination of his lengthy criminal history. Indeed, the defendant has devoted much of his adult life to being a genuine menace to those in his community. After receiving a juvenile conviction for aggravated battery, PSR at ¶29, the defendant began accruing adult convictions, starting with aggravated discharge of a firearm in 2003. *Id.* at ¶31. After serving a portion of his four year sentence, the defendant was arrested again after kicking and threatening to kill a medic and a nurse who were attempting to administer medical care to him. *Id.* at ¶32. Following another prison sentence, and a traffic offense, the defendant was again arrested after threatening to kill his girlfriend in front of law enforcement and defacing her property. *Id.* ¶34. He was then convicted of stealing money from a Dunkin Donuts, yielding a three year prison sentence. Finally, in September 2009, the defendant was again convicted of aggravated battery after he kicked a security officer and police officer several times.

Defense counsel attempts to downplay the defendant's criminal history, claiming the defendant suffers from "delusional beliefs." Doc. #122 at 5. But the notion that the defendant's antics with this Court are genuine is undercut by the defendant's prison calls, one of which was played during the defendant's trial. Those calls make clear the defendant is perfectly capable of engaging in cogent conversation with family members and friends. In hours and hours of conversation, not once does the defendant entertain delusions or engage in any of the antics he displayed in court.

But even if the defendant suffers from mental illness, that does not call for leniency here. Rather than deal with any mental problems, the defendant has devoted nearly a decade of his life to crime, a life choice borne out by his rap sheet as a juvenile and as an adult. None of defendant's convictions or prison sentences served as a wake-up call, which should leave this Court skeptical of any assurance that the defendant will somehow now seek mental health treatment and turn away from a life of crime in the face of a decade of evidence to the contrary.

C. Need to Promote Respect for the Law and Provide Just Punishment, Afford Adequate Deterrence, and Protect the Public from Further Crimes of Defendant

This crime merits a significant sentence of imprisonment if only to deter the defendant. No matter the cause of the defendant's unrelenting criminal behavior – be it a difficult upbringing or traces of mental illness – that does nothing to reduce the danger to the community the defendant presents. Before his 30th birthday, the defendant has amassed a troubling criminal history and poses a true threat to others in his community. His criminal track record is the Court's best guide for predicting his future conduct. Given that the defendant's prior convictions did not stop him from robbing a bank, it is highly unlikely that this conviction will do so. Only a guidelines sentence will provide safety for our community by taking the defendant off the street.

Conclusion

For the foregoing reasons, the United States respectfully requests this Court impose a sentence within the advisory guidelines.

Dated: November 6, 2013

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